

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
ATTORNEY GENERAL

JUNE DUFFY
ACTING BUREAU CHIEF FOR LITIGATION

January 25, 2008

By Hand

Hon. William H. Pauley
United States District Judge
United States Courthouse
500 Pearl St., Room 2210
New York, NY 10007

Re: **Prather v. Marshall**, 07Cv8270

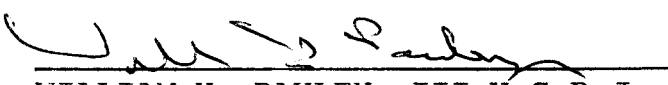
Dear Judge Pauley

This office represents the defendants Marshall and Chu in this pro se inmate case involving accommodation of Muslim dietary practice. As per discussion at the initial court conference on January 18, 2008, a defendant listed very vaguely by plaintiff as "Sgt." or "Mr. Kelly" (hereinafter "Kelly") was never identified as to location and there is no indication that Kelly was served with process. We request through this letter a modification of your Honor's January 18, 2008 order which required an amended answer to include Kelly by January 28, 2008.

Although the docket indicates that a Kelly was served on December 14, 2007 and service was accepted by a Corrections Officer, the enclosed Marshal's return of service shows clearly that Kelly has not been served. The officer advises that the only individual with the surname Kelly who worked at the Sing Sing Correctional Facility as a sergeant was transferred from the facility in December 2006. We are attempting to locate this individual to determine whether he recalls the situation described in plaintiff's complaint.

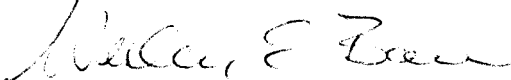
It is accordingly requested that the Court's order be modified to permit an answer on behalf of Kelly within three weeks following January 28, 2008 if his identity and location can be ascertained, with plaintiff being instructed to provide additional information on Kelly's identity (such as work shift and post). If plaintiff cannot be more clear about Kelly, that name should be dropped from the case.

Application Granted.
SO ORDERED:


WILLIAM H. PAULEY III U.S.D.J.

No previous request for an extension of time has been made.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wesley E. Bauman", written in a cursive style.

WESLEY E. BAUMAN
Assistant Attorney General

Encl.

cc. James Prather, pro se (by regular mail w/ encl.)